

**Enrolled Minutes of the Fifty-Fourth Regular Meeting  
Of the Twenty-Sixth Highland Town Council  
Monday, March 22, 2010**

*Study Session.* The Twenty-Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, March 22, 2010 at 6:30 O'clock P.M. in the regular place, the upper meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*Silent Roll Call:* Councilors Mark A. Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. Councilor Bernie Zemen was absent as he is on vacation. The Deputy Clerk-Treasurer, Kathleen A. Dowling was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed the agenda of the imminent meeting.

The study session ended at 6:59 O'clock p.m.

*Regular Meeting.* The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, March 22, 2010 at 7:00 O'clock p.m. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Town Council President Mark A. Herak presided and the Deputy Clerk-Treasurer was present to memorialize the proceedings.

The session was opened with Town Councilor Brian Novak leading the pledge of allegiance to the United States Flag and offering a prayer.

**Roll Call:** Councilors Mark A. Herak, Dan Vassar, Brian Novak and Konnie Kuiper were present. Councilor Bernie Zemen was absent. The Deputy Clerk-Treasurer, Kathleen A. Dowling was present to memorialize the proceedings. A quorum was attained.

**Additional Officials Present:** Jared Tauber, Town Council Attorney, sitting in for Rhett Tauber; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, Jr., CFOD; and Cecile Petro, Redevelopment Director were also present.

Robin Carlascio of the Gazebo Express and Chuck Haber of the Hammond Times were also present.

**Minutes of the Previous Session**

The minutes of the regular meeting of 08 March 2010 were approved by general consent.

**Communications:**

1. The Deputy Clerk-Treasurer read aloud a letter from Allen Landscaping requesting a waiver of the \$25 late fee for filing the business license application with a postmark of March 3<sup>rd</sup>, which is after the February 28<sup>th</sup> deadline. A motion was made by Councilor Kuiper to approve a waiver of the \$25 late fee for Allen Landscaping. Councilor Vassar seconded the motion. Upon a vote *viva voce*, the motion passed. The waiver was approved.

**Unfinished Business and General Orders:**

1. **Introduced Ordinance No. 1452:** An Ordinance Amending Schedules in Chapter 131 of the Highland Municipal Code and increasing certain fines that are payable before an admissions Clerk in the Ordinance Violations Bureau, all Pursuant to IC 33-36, IC 36-1-3, IC 36-1-4, IC 36-8, and IC 36-9 et Seq. *Introduced by Councilor Vassar at the Town Council meeting of March 08, 2010. There was no further action.*

Councilor Kuiper moved the passage and adoption of **Introduced Ordinance No. 1452**. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

**Ordinance No. 1452  
Of the  
TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE AMENDING SCHEDULES IN CHAPTER 131 OF THE HIGHLAND MUNICIPAL CODE AND INCREASING CERTAIN FINES THAT ARE PAYABLE BEFORE AN ADMISSIONS CLERK IN THE ORDINANCE VIOLATION BUREAU, ALL PURSUANT TO IC 33-36, IC 36-1-3, IC 36-1-4, IC 36-8 AND IC 36-9 ET SEQ.**

**Whereas,** The Town of Highland is a local unit of general government governed by a Town Council, which is both the fiscal and legislative body of the Town;

**Whereas,** IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

**Whereas,** IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through passage of an ordinance passed by the legislative body;

**Whereas,** I.C. 36-7-2-2 provides that a unit may plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements;

**Whereas,** I.C. 36-7-2-3 provides that a unit may inspect any structure or other improvement at any reasonable time;

**Whereas,** I.C. 36-7-2-4 provides that a unit may regulate methods of, and use of materials in repair, alteration, and construction of structures and other improvements;

**Whereas,** I.C. 36-9-2-7 provides that municipalities may regulate the use of public ways; and,

**Whereas,** I.C. 36-8-2-4 A unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare;

**Whereas,** I.C. 36-8-2-9, provides that a unit may regulate public gatherings;

**Whereas,** The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

**Whereas,** The Town Council believes this action to be necessary and desirable for the conduct of the affairs of the Town, and in the public interest, consistent with powers previously described as well as the powers granted under IC 36-1-3 et seq.;

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That subdivision (A) of Section §131.06 of the municipal code be amended by repealing subdivision (A) and replacing it with a new subdivision, to be styled as (A), which shall read as follows:

- (A) *Building Code.* The Town Council of the Town of Highland, Lake County, Indiana, hereby establishes and designates the following fine schedule for ordinances that are subject to admission before a Violations Clerk in the Ordinance Violations Bureau, and subject to the enforcement jurisdiction of the Building Inspector, the Associate Inspectors, the officers of the Highland Police Department, or any other person authorized or empowered to enforce the municipal codes of the Town of Highland:

Code Section	Violation	Fine
§210.015 et seq.	Building Code Violations	\$50 \$75
§210.015 et seq.	Permit Violations	\$50 \$75
§210.015 et seq.	Stop work orders violations	\$50 \$250
§210.051 et seq.	Electrical permit & swimming pool violations	\$50 \$75
§210.065 et seq.	Plumbing permit violations	\$50 \$75
§210.091 et seq.	Contractor License violations	\$50 \$75
§210.110 et seq.	Unsafe Building violations	\$50 \$75
§210.125 et seq.	Building demolition violations	\$50 \$150

**Section 2.** That subdivision (B) of Section §131.06 of the municipal code be amended by repealing subdivision (B) and replacing it with a new subdivision, to be styled as (B), which shall read as follows:

(B) *General Regulations.* The Town Council of the Town of Highland, Lake County, Indiana, hereby establishes and designates the following fine schedule for ordinances that are subject to admission before a Violations Clerk in the Ordinance Violations Bureau, and subject to the enforcement jurisdiction of the Building Inspector, the Associate Inspectors, the officers of the Highland Police Department, the Public Works Director, the General Supervisor of Public Works or any other person authorized or empowered to enforce the municipal codes of the Town of Highland:

Code Section	Violation	Fine
§94.03	Various Nuisance violations	\$40-\$75
§94.20	Weed violations (per day)	\$50-\$75
§96.04	Fireworks: Discharging unapproved fireworks as defined by IC 22-11-14 et seq. and Chapter 96 of the municipal code	<del>\$100</del> \$150
<b>§110.99 (A)</b>	<b>Operating without a Business license or Registration (per day)</b>	<b>\$100</b>
§112.20 et seq.	Amusement license violations (per machine)	<del>\$60</del> -\$95
§114.01 et seq.	Peddler and Solicitors violations	\$60
<b>§119.01 et seq.</b>	<b>Controlled Event violations</b>	<b>\$50</b> <b>\$100</b>
§ 130.04	Skateboarding prohibited	\$45
§ 170.03	Unlawful origin of solid waste	\$50
§ 170.04	Littering	\$50
§ 170.05	Open burning of garbage or rubbish	\$75
§ 170.06 (E)	Trash collection/pilfering violations	\$40
§ 170.06 (F)	Unauthorized collection of recyclables	\$40
§170.14	Abandoned refrigerators and appliances	\$75
§171.10 (B)	Sewage Disposal violations	\$75
§172.03	Bus bench violations	\$25
§172.38	Road cut violations	\$100

**Section 3.** That subdivision (D) of Section §131.06 of the municipal code be amended by repealing subdivision (D) and replacing it with a new subdivision, to be styled as (D), which shall read as follows:

(D) *Parking / Non-Moving Violations.* The Town Council of the Town of Highland, Lake County, Indiana, hereby establishes and designates the following fine schedule for ordinances that are subject to admission before a Violations Clerk in the Ordinance Violations Bureau, and subject to the enforcement jurisdiction of the officers of the Highland Metropolitan Police Department, **Code Enforcement Officer**, or any other person authorized or empowered to enforce the municipal codes of the Town of Highland:

Code Section	Violation	Fine
§72.04	Stopping, standing or parking near industrial plants gate	\$40
§72.05	Stopping, standing or parking on parkway	<del>\$40</del> -\$65
§72.06	Parking not to obstruct traffic	\$40
§72.06.01	Vehicles parked on sidewalks	<del>\$50</del> \$65
§72.07	Parking in alleys	<del>\$40</del> \$65
§72.08	Parking in front of public buildings and theaters	\$75
§72.10	Angle Parking	\$40
§72.12	Parking prohibited totally	\$65
§72.13	Truck parking	\$50
§72.14	Bus Loading Zones	\$50

§72.16	Parking prohibited during certain hours	\$40
§72.17	Fifteen minute parking	\$40
§72.18	Two-hour parking	\$40
§72.19	Special regulations for street work	\$40
§72.20	Special regulations for snow removal	\$75
§72.20.1	Parking during period of leaf collection	\$75
§72.24	Parking, storage or maintenance of certain vehicles in residential and commercial areas	\$100
§72.25	Parking without special permit display prohibited	\$125
§73.02	Snowmobile violations	\$100
§73.03	<b>Parental responsibility and wrong aged operator</b>	<b>\$250</b>
§73.15	<b>Moped Traffic violations</b>	<b>\$100</b>
§73.22	<b>Failure to Display Motorized Bicycle license</b>	<b>\$100</b>

**Section 4.** That the provisions set forth in this ordinance shall become and remain in full force and effect thereafter, immediately following the date of its passage and adoption, upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a) and its publication as prescribed in IC 36-5-2-10(b).

Introduced and Filed on the 8<sup>th</sup> day of March 2010. Consideration on same day or at same meeting of introduction, was not undertaken pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 22<sup>nd</sup> Day of March 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President (IC 36-5-2-10)

**Attest:**

Kathleen A. Dowling  
Deputy Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Introduced Ordinance No. 1453:** An Ordinance Amending the Ordinance Establishing the Business License and Registration and Establishing a License and Registration Fee. *Introduced by Councilor Vassar at the Town Council meeting of March 08, 2010. There was no further action.*

Councilor Novak moved the passage and adoption of **Introduced Ordinance No. 1453**. Councilor Vassar seconded. Upon a roll call vote there were four affirmatives and no negatives. The motion ordinance was adopted.

**ORDINANCE No. 1453  
of the  
TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE PRESCRIBING BUSINESS LICENSE REGISTRATION AND ESTABLISHING A LICENSE FEE AND  
REGISTRATION FEE**

**WHEREAS**, I.C. 36-1-3-4 et sequitur, provides that a unit of town government possesses all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute; and

**WHEREAS**, I.C. 36-1-3-8(5) provides a unit of town government enabling authority to impose a license fee reasonably related to the administrative cost of exercising a regulatory power;

**WHEREAS**, I.C. 36-7-2-2 provides that a unit may plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements;

**WHEREAS**, I.C. 36-7-2-3 provides that a unit may inspect any structure or other improvement at any reasonable time;

**WHEREAS**, I.C. 36-7-2-4 provides that a unit may regulate methods of, and use of materials in repair, alteration, and construction of structures and other improvements;

**WHEREAS**, I.C. 36-9-2-7 provides that municipalities may regulate the use of public ways; and,

**WHEREAS**, I.C. 36-8-2-4 provides that a unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare;

**WHEREAS**, I.C. 36-8-2-9 A unit may regulate public gatherings;

**WHEREAS**, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

**WHEREAS**, The Town Council believes this action to be necessary and desirable for the conduct of the affairs of the Town, and in the public interest, consistent with powers previously described as well as the powers granted under IC 36-1-3 et seq.;

**WHEREAS**, Business registration and licensing is necessary to maintain current data and contact information on business owners to identify potential on-site hazards, security concerns, enforce the property maintenance code, comply with business recycling requirements of the Lake County Solid Waste District, identify market gaps for recruiting new businesses and prevent operation of business in violation of law; and

**WHEREAS**, The Town Council has determined the municipal code requires amendment in order require business licensing and to recover costs incurred by the Town for administration, processing, record management and enforcement associated with business registration and licensing.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** Sections 110.01 through 110.16 and Section 110.99 of Chapter 110 of the Highland Code of Ordinances are hereby amended by repealing existing language and adopting new language for sections of Chapter 110 as follows:

## **BUSINESS LICENSES**

### **§ 110.01 PERSONS SUBJECT TO BUSINESS LICENSES**

Registration and a business license are required for all persons doing business within the town including, those who have home occupations and those who lease or rent real estate.

### **§ 110.02 APPLICATIONS; CONTENTS**

Applications for a business license required by this chapter shall be made in writing to the Clerk-Treasurer in the absence of provisions to the contrary. Each application shall state the name of the applicant, the name and telephone number of key holders, the types of hazardous or flammable materials and their normal locations within the building, the location of the business, the time covered, the fee paid and such additional information as may be needed by the town officials.

(a) Foreign Corporations. Any foreign corporation doing business in the town shall furnish a copy of its certificate of authority from the secretary of state's office, in addition to all other documentation required by this chapter, prior to the issuance of a business license by the town.

(b) Solid Waste Management Plan. Each business located within the boundaries of the town, upon being licensed or obtaining any renewal thereof, shall provide as part of its submission a plan describing how its solid waste will be managed, including reduction, reuse and recycling steps taken to reduce its waste stream. If a business has no convenient way to recycle, a statement to that effect shall be sufficient in the application.

### **§ 110.03 FORMS**

Forms for registration for a business licenses required by this subchapter and application thereof, shall be prepared and kept on file by the Clerk-Treasurer or designee. Registration profile information shall be accessible to senior management staff of the town.

### **§ 110.04 FEES; WHEN DUE; DISPOSITION**

In the absence of any provision to the contrary, all fees and charges for business licenses shall be paid in advance at the time application is made therefore to the Clerk-Treasurer. All fees shall become a part of the General Fund.

### **§ 110.05 BUSINESS LICENSE FEE and REGISTRATION FEE**

(a) Any person maintaining, operating or conducting any business, business activity, occupation or commercial establishment, or doing business, or engaging in any service or occupation within the town shall pay an annual fee prescribed by this section.

(b) In the event there is no specific fee set for the engagement of a particular business or service, then an annual license fee for business or service not otherwise classified shall be \$25.00. If paid after February 28th of the calendar year, the annual license fee shall be \$50.00.

(c) **Exempt businesses as described in Section §110.08 of this code shall pay a registration fee of \$25.00. If paid after February 28th of the calendar year, the annual license fee shall be \$50.00.**

(d) If such business or service being conducted in the town consists of displays for trade shows, craft shows or short term events, and said events are for a period of no more than six consecutive days, and are not held more than three times in any one fiscal year, then in such event, said business or service shall not be required to pay a business license fee as required herein.

#### § 110.06 **TERMINATION OF LICENSE**

(a) All business licenses terminate on the last day of the calendar year, where no provision to the contrary is made. When the license terminates, an occupancy permit is automatically revoked.

(b) Upon expiration of an annual business license **or registration**, the Clerk-Treasurer or designee shall mail notice of the license fee; provided that a failure to send out such notice, or the failure of a business to receive it, shall not excuse a business from a failure to secure a license or renewal thereof, nor shall it be a defense in an action for operation without a license.

#### § 110.07 **CHANGE OF LOCATION**

The location of any business or occupation **licensed or** registered may be changed, provided prior notice thereof is given to the Clerk-Treasurer and the new location meets all of the requirements for the issuance of the original license.

#### § 110.08 **REGISTRATION OF EXEMPT BUSINESSES**

(A) All businesses, business activities, occupations or commercial establishments which are exempt from licensing by the town because they are licensed and regulated by state or national regulations, **which preempt added licensing or registration, or businesses that are public or private schools, churches, mosques, synagogues, or similar place of worship and other not-for-profit organizations** shall not be required to be licensed to operate.

(B) **Exempt Business Registration.** All businesses, business activities, occupations or commercial establishments which are exempt from licensing by the town because they are licensed and regulated by state or national regulations, **or that are public or private schools, churches, mosques, synagogues, or similar place of worship and other not-for-profit organizations**, shall be required to register with the town on forms on file with the Clerk-Treasurer's Office. Such forms shall require information as to the location, nature and extent of such business, business activity, occupation or commercial establishment and shall constitute a registration only. Each business, business activity, occupation or commercial establishment at the time of registration shall pay an annual registration fee in accordance with the fee schedule set out in § 110.05.

#### § 110.09 **REPEALED**

#### § 110.10 **INVESTIGATIONS AND INSPECTIONS**

(a) Upon the receipt of an application for a license or permit where an ordinance of the town necessitates an inspection or investigation before the issuance of such permit or license, the Clerk-Treasurer or designee shall refer such application to the proper office of the town for making such inspection or investigation within 48 hours of the time of such receipt. The officer charged with the duty of making an inspection or investigation shall make a report thereon, favorable or otherwise, within ten business days after receiving the application or a copy thereof.

(b) An application for a business license in connection with the care and handling of food, the spread of disease or for the protection of health shall be accompanied by all necessary county and state licenses or permits before it will be considered by the town.

(c) The Building Commissioner and the Fire Chief shall make or cause to be made inspections of buildings or other structures for compliance with the property maintenance code, the building, fire codes and other life safety codes of the town; except it is not the intent of this article to prescribe such inspections with every annual business license renewal.

(d) All other investigations, except where otherwise provided, shall be made by the **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances.**

(e) Whenever inspection is provided for or required by ordinance in connection with premises used for or in connection with the operation of a business or occupation for which a license, registration or permit is required, or is reasonably necessary thereto to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the person in charge of the premises to be inspected to admit thereto, for the purpose of making the inspection, any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(f) Whenever any analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee or permittee whose business is governed by the provision to give any authorized officer or employee of the town requesting such samples sufficient samples of such material or commodity for such analysis upon request.

(g) In addition to any other penalty which may be provided, the President of the Town Council may revoke the license or permit of any licensee or permittee in the town who refuses to permit any such officer or employee who is authorized to make such inspection or take such sample to make the inspection or take any adequate sample of such commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided that no license, registration or permit shall be revoked for such cause unless written demand is made upon the licensee, registrant or permittee or person in charge of the premises, in the name of the town, stating that such inspection or sample is desired, at the time it is sought to make the inspection or to obtain the sample.

#### § 110.11 BOND AND INSURANCE

Whenever the **Building Commissioner or Code Enforcement Officer** receives an application for a license or permit which, upon investigation, is a business in which the citizens of the town are or may be exposed to personal injury or property damage, the **Building Commissioner or Code Enforcement Officer** shall require that the applicant provide a bond and evidence of insurance. The amount and form of the bond and insurance shall be approved by the **Clerk-Treasurer**, and no license or permit shall be issued until the bond and insurance so required has been approved.

#### § 110.12 COMPLIANCE WITH ORDINANCES

**NO LICENSE SHALL BE ISSUED FOR THE CONDUCT OF ANY BUSINESS AND NO PERMIT SHALL BE ISSUED FOR ANY THING OR ACT IF THE PREMISES AND BUILDING TO BE USED FOR THE PURPOSE DO NOT FULLY COMPLY WITH THE ORDINANCES OF THE TOWN.**

#### § 110.13 ISSUANCE FOR UNLAWFUL ACTS PROHIBITED

No license or permit shall be issued for the conduct of any business or performance of any act which is in violation or which would involve a violation of any ordinance of the town or law, rule or regulation of the state or of the United States.

#### § 110.14 NUISANCES

No business, whether or not a license, registration or permit has been issued therefor, shall be so conducted or operated as to be a nuisance.

#### § 110.15 POSTING

It shall be the duty of any person conducting a business or activity in the town for which a license, registration or permit has been issued to keep his license or permit posted in a prominent place on the premises used for such business or activity at all times.

#### § 110.16 SUSPENSION OR REVOCATION

(a) Grounds. Any license, registration or permit required by town ordinances may be suspended or revoked by the President of the Town Council for any one or more of the following reasons:

- (1) Violation of an ordinance of the town.
- (2) Violation of any law, rule or regulation of the state or of the United States, or any department or division thereof.
- (3) Misrepresentation or falsification of statements in the application for a license, registration or permit.

(b) Procedure.

- (1) Notice to correct violation. If the **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances** has reason to believe that a violation as described in subsection (a) of this section by the licensee, registrant or permittee can be corrected, the **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances** shall serve written notice upon the licensee, registrant or permittee setting forth the violation, and the licensee, registrant or permittee shall have not less than five and not more than 30 business days, as set by the **Building Commissioner or the Code Enforcement Officer** to correct the violation and to submit evidence of the correction.
- (2) Authority of President of Council. The President of the Town Council may suspend or revoke any license or permit for one or more of the reasons set forth in subsection (a) of this section.
- (3) *Hearing.* Before the suspension or revocation of any license, registration or permit, the President of the Town Council or designee shall give written notice to the licensee, registrant or permittee of the violation and set forth therein a date for hearing for the purpose of suspending or revoking such license, registration or permit. Such hearing for suspension or revocation shall be held not less than ten business days after the personal service of or the mailing of the written notice; however, if the President of the

Town Council believes that immediate and irreparable harm or damage to person or property may occur by reason of the violation, the hearing may be had after 24 hours following the personal service of or the mailing of the written notice.

- (4) Effect of revocation or suspension. The suspension or revocation shall be supplementary to any other proceedings provided by ordinance or law and shall not stay any other enforcement provisions of this subchapter.
- (5) Authority to deny upon reapplication. The President of the Town Council may deny a license or permit to any applicant who has had a license or permit issued by the town revoked.

**§ 110.99 PENALTIES**

(A) Except as otherwise provided, any person, entity or organization who shall violate any provisions of this chapter by failing to obtain a business license, operating without a business license or exempt business registration, may be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in § 131.06. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(B) If such persons, entity or organization shall violate any provisions of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violations shall be construed as justiciable offenses and shall be subject to a fine of not less than \$100 per violation, nor more than \$2,500. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(C) In addition to satisfying any fine lawfully imposed under this chapter, the violator may also be made to pay the proper fee in order to comply with the provisions regarding operating with a proper business license.

**Section 2.** All provisions of ordinances in conflict with the provisions hereof are hereby repealed with such amendments hereby enacted pursuant to §10.17 of the Highland Municipal Code.

**Section 3.** This ordinance shall become effective and be in full force and effect from **and** after its adoption, passage and publication in the manner prescribed by law and until its subsequent amendment or repeal by proper ordinance.

Introduced and Filed on the 8th day of March 2010. Consideration on same day or at same meeting of introduction was not sought, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 22<sup>nd</sup> day of March 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

**Mark A. Herak, President (IC 36-5-2-10)**

**ATTEST:**

**Kathleen A. Dowling**  
Deputy Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Proposed Ordinance No. 1455:** An Ordinance to Amend the Municipal Code and Re-establish a Rainy Day Fund, providing for its purposes, all pursuant to IC 36-1-8-5.1.

Councilor Novak introduced and moved the consideration of **Ordinance No. 1455**. Councilor Kuiper seconded. Upon a roll call vote, a unanimous vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance could be considered.

Councilor Novak moved the passage and adoption of Ordinance No. 1455. Councilor Kuiper seconded. Upon a roll call vote, with a two-thirds vote being necessary, there were four affirmatives and no negatives. The motion passed. The ordinance was adopted.

**ORDINANCE NO. 1455  
of the  
TOWN of HIGHLAND, INDIANA**

**AN ORDINANCE TO AMEND THE TERMS RELATED TO THE RAINY DAY FUND OF THE TOWN OF HIGHLAND,  
PURSUANT TO IC 36-1-8-5.1**



**WHEREAS**, The Town Council is the fiscal body of the Town of Highland;

**WHEREAS**, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund; and,

**WHEREAS**, IC 36-1-8-5.1 enables municipalities to establish a Rainy Day Fund by the adoption of an ordinance specifying the purposes of the fund and the sources of funding for the fund; and,

**WHEREAS**, IC 36-1-8-5.1(f) provides that the state department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the Rainy Day Fund of the political subdivision; and,

**WHEREAS**, IC 36-5-2-9 provides that the legislative body may adopt ordinances and resolutions for the performance of functions of the town; and,

**WHEREAS**, IC 36-1-3-4 provides that the powers units have under IC 36-1-3-4(b)(1) are listed in various statutes, further noting that these statutes do not list the powers that units have under IC 36-1-3-4 (b)(2); therefore, the omission of a power from such a list does not imply that units lack that power; and

**WHEREAS**, IC 36-1-3-4 further provides that a unit has all powers granted it by statute as well as all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

**WHEREAS**, The Town Council has heretofore determined that it would be desirable to establish a rainy day fund and to allow the fund to be used for all the lawful purposes set forth in IC 36-1-8-5, and has done so by the adoption of *Ordinance No. 1423*, as amended by *Ordinance No. 1429.1423-A*; and

**WHEREAS**, The Town Council has determined that it is necessary, desirable and of great public benefit, to re-establish the fund herein referenced to support and carryout the lawful public purposes of the municipality; and

**WHEREAS**, It would be and is in the best interest of the Town of Highland to enact an ordinance as an amendment to the Highland Municipal Code in order to further perfect the operation of the Town;

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** The Highland Municipal Code is hereby amended by adding a new Chapter to be numbered \_\_\_\_ and to be entitled: Rainy Day Fund, which shall read as follows:

#### RAINY DAY FUND

##### § XXX.01 ESTABLISHMENT

(A) There is hereby authorized, created and established a fund of the Town of Highland, to be called the Rainy Day Fund, pursuant to IC 36-1-8-5.1 et seq.

(B) The Rainy Day Fund is dedicated and established for accumulating funds to provide resources to support lawful purposes of the municipality, including meeting exigencies as herein may be defined and such other purposes permitted by IC 36-1-8-5.1 and as are identified in this subchapter.

(C) The sources of funding for the Rainy Day Fund may include the following:

1. Unused and unencumbered funds transferred pursuant to and identified in IC 36-1-8-5; IC 6-3.5-1.1-21.1; IC 6-3.5-6-17.3; or IC 6-3.5-7-17.3.
2. Interest earned from the investment of moneys on deposit to the credit of the fund, provided such investments are conducted pursuant to I.C. 5-13-9 et seq.;
3. An appropriation in the annual budget in the several funds of the municipality as maybe identified and approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d);
4. Unreserved, undesignated fund balances which may be identified in the several funds of the municipality, as maybe approved by the Town Council, and then transferred to the Rainy Day Fund, subject to the provision of IC 36-1-8-5.1(d); and

(D) The Rainy Day Fund is subject to the same appropriation process as other funds of the municipality that receive tax money.

(E) In any fiscal year, the Town Council may transfer not more than ten percent (10%) of the town's total annual budget for that fiscal year, adopted under IC 6-1.1-17, to the Rainy Day Fund as authorized by IC 36-1-8-5.1.

(F) The Rainy Day Fund is established and remains in effect until such time as the fund is repealed or rescinded by action of the Town Council.

§ XXX.02      **PURPOSES, USES and PERMISSIBLE EXPENDITURES**

(A)      Expenditures from the Rainy Day Fund shall only be used for the following purposes:

1. To make temporary transfers to other funds of the town for cash flow purposes to meet debt service, payroll and monthly accounts payable when tax revenues are not received in a timely manner to mitigate interest expense on tax anticipation debt as provided in IC 36-1-8-4;
2. To pay the deductibles on insurance not already provided for in other funds of the municipality;
3. To pay monetary settlements, damages or claims in consequence of a legal cause of action;
4. To pay and provide resources for the reimbursement of costs borne by municipal employees for medical infertility services subject to the ordinance which may authorize and establish such an employee group benefit;
5. To pay expenses related to repairs of the emergency and weather warning siren system of the Town not already provided for in other funds of the municipality;
6. **To pay expenses related to special consulting for fiscal affairs particularly associated with cost of governmental services, costs analysis and related analysis and review;**
7. **To pay expenses related to the acquisition of real property and improvements by the Municipality not already provided for in other funds of the municipality;**

(B)      Notwithstanding IC 36-5-2-9.6, the *affirmative vote of four (4) members* of the Town Council is necessary for the following uses of the fund:

1. To pay the deductibles on insurance not already provided for in other funds of the municipality;
2. To pay monetary settlements, damages or claims in consequence of a legal cause of action;
3. To pay expenses related to repairs of the emergency and weather warning siren system of the Town not already provided for in other funds of the municipality;
4. **To pay expenses related to the acquisition of real property and improvements by the Municipality not already provided for in other funds of the municipality;**

§ XXX.03      **EXPENDITURE UPON APPROPRIATION**

Expenditures from the Rainy Day Fund may be made only upon appropriation by the fiscal body for the purpose for which the fund is specifically established, in the manner provided by statute for making other appropriations and shall be disbursed only on approved accounts payable vouchers allowed by the legislative body, all pursuant to IC 5-11-10 and IC 36-5-4.

§ XXX.04      **INVESTMENTS AUTHORIZED**

Money in the Rainy Day Fund may be invested provided that the yields from the purchase and sale of any such investments shall be deposited with the fund pursuant to IC 5-13-9 and Chapter 36 of the Highland Municipal Code.

§ XXX.05      **PRESERVATION and DISPOSITION OF FUND ASSETS**

All unused and unencumbered cash on deposit to the credit of the Rainy Day Fund does not revert to the corporation general fund nor to any other fund but shall remain with the Rainy Day Fund until such time as an ordinance is passed and adopted regarding its disposition. Notwithstanding IC 36-5-2-9.6, an ordinance abolishing and defeasing the Rainy Day Fund and authorizes a transfer of any remaining unexpended, unencumbered assets of the fund to a particular fund, must be passed by at least four (4) members of the Town Council.

**Section 2.**      That the fund established by Ordinance No. 1356, and re-established by Ordinances No. 1408 as amended by *Ordinance No. 1423*, as further amended by *Ordinance No. 1429.1423-A*, named the Rainy Day Fund, which exists at the time of the adoption of this ordinance, has continuity of existence. The cash on deposit to the credit of the fund established by *Ordinance No. 1423*, as further amended by *Ordinance No. 1429.1423-A*, as well as all its assets and liabilities, held prior to the passage and adoption of this ordinance, remains with the fund. Further, the cash on deposit to the credit of the fund is hereby found to be an approved source of money for the fund.

**Section 3.**      That any and all such ordinances in conflict with the provisions of this ordinance, including Ordinance No. 1356 and re-established by Ordinance No. 1408, as amended by *Ordinance No. 1423*, as still further amended by *Ordinance No. 1429.1423-A*, subject to Section 2 of this ordinance, are hereby repealed and are of no further force or effect. *The*

*Clerk-Treasurer shall be authorized to assign appropriate section numbers in support of the codification of the particular provisions ordinance.*

**Section 4.** That this ordinance again establishing, a Rainy Day Fund, be filed with the Department of Local Government Finance (DLGF), by the Town Clerk-Treasurer pursuant to a memorandum and instruction promulgated by the Commissioner of DLGF in 2009.

**Section 5.** This ordinance shall become and be in full force and effect from and after the date of its passage and adoption upon its signature by the executive in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 22<sup>nd</sup> day of March 2010. Consideration on same day or at same meeting of introduction attained 4 votes in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 22<sup>nd</sup> day of March 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

**Mark A. Herak, President (IC 36-5-2-10)**

**ATTEST:**

**Kathleen A. Dowling**  
**Deputy Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)**

4. **Resolution No. 2010-11:** A RESOLUTION ACCEPTING IMPROVEMENTS FOR LOTS 2 AND 3 OF HIGHLAND CORPORATE CENTER ADDITION TO THE TOWN OF HIGHLAND AND ACCEPTANCE FO THE DEVELOPER'S MAINTENANCE BONDS.

Councilor Vassar moved for adoption of **Resolution No. 2010-11**. Councilor Novak seconded. Upon a roll call vote there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN COUNCIL of the TOWN OF HIGHLAND  
RESOLUTION No. 2010-11**

**A RESOLUTION ACCEPTING IMPROVEMENTS FOR LOTS 2 AND 3 OF HIGHLAND CORPORATE CENTER  
ADDITION TO THE TOWN OF HIGHLAND AND ACCEPTANCE OF THE DEVELOPER'S MAINTENANCE  
BONDS.**

**WHEREAS,** The Highland Plan Commission has granted secondary subdivision approval to Grimmer Family Limited Partnership, the Developer of Lots 2 and 3 of Highland Corporate Center Addition to the Town of Highland;

**WHEREAS,** Approval of Lots 2 and 3 of Highland Corporate Center Addition to the Town of Highland was conditioned on the construction of improvements and utilities as set out in the subdivision plat, engineering plans and specifications of said subdivision filed in the Highland Plan Commission Docket No. 97-13; and

**WHEREAS,** Grimmer Family Limited Partnership, the Developer has constructed the improvements,

**NOW THEREFORE, BE IT RESOLVED:**

**Section 1.** That he following improvements and utilities constructed on behalf of the Developer within Lots 2 and 3 of Highland Corporate Center Addition to the Town of Highland have been accepted by the Town of Highland: *all curbs, paving, sanitary sewer, storm sewer and water main improvements located within any public right-of-way or public easement;*

**Section 2.** That the following improvements and utilities constructed on behalf of the Developer for Lots 2 and 3 of Highland Corporate Center Addition to the Town of Highland have been accepted by the Town of Highland: *all curbs, paving, sanitary sewer, storm sewer and water main improvements located within any public right-of-way, and all sanitary sewer and water main improvements located within any public easement.*

**Section 3.** That the Developer has tendered maintenance bonds acceptable in form and amount as surety for maintenance of said improvements, and said bonds in the total amount of \$ 1,124.00, are hereby approved and accepted;

**Section 4.** That the acceptance of the installed improvements will add approximately 48 feet to the Town of Highland road inventory.

**Section 5.** That the proper officer report the addition of new public way inventory to the proper section of the Indiana Department of Transportation in order to include it in the calculations related to the distribution of Motor Vehicle Highway and Local Road and Street funds.

**Duly Adopted** by the Town Council of the Town of Highland, Lake County, Indiana, this 22<sup>nd</sup> day March 2010. Having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Mark A. Herak, President IC 36-5-2-10

**Attest:**

Kathleen A. Dowling  
**Deputy Clerk-Treasurer** (IC 33-16-4-1; IC 36-5-6-5)

5. **Resolution No. 2010-10:** A RESOLUTION DECLARING THE TOWN COUNCIL'S OFFICIAL INTENT TO REIMBURSE EXPENDITURE. *The purpose of this resolution is to permit the repayment of any preliminary expenditures generally, and the expenditure to acquire real property in particular, from the proceeds of a bond issue related to the development of the property acquired.*

Councilor Novak moved for passage and adoption of **Resolution No. 2010-10**. Councilor Kuiper seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND  
TOWN COUNCIL RESOLUTION NO. 2010-10**

**A RESOLUTION DECLARING THE TOWN COUNCIL'S OFFICIAL INTENT TO REIMBURSE  
EXPENDITURES**

**WHEREAS**, The Town of Highland, Indiana (the "Town") intends to acquire land and equip a new public safety facility and/or renovate the existing Town Hall (the "Project"); and

**WHEREAS**, The Town reasonably expects to reimburse certain costs of the Project with proceeds of debt to be incurred by or on behalf of the Town in an amount not to exceed \$12,000,000; and

**WHEREAS**, The Town, acting on its own behalf or through a leasing entity, expects to issue or have issued on its behalf debt for the Project and to use the proceeds to reimburse or pay costs of the Project;

**NOW, THEREFORE, BE IT RESOLVED** BY THE Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the Town declares its official intent to acquire land and construct the Project with proceeds of debt incurred by or on behalf of the Town in an amount not to exceed \$12,000,000; and to issue debt or to approve debt issued by a leasing entity that will lease the Project to the Town.

**Section 2.** That the Town reasonably expects to reimburse itself from proceeds of obligations issued by or on behalf of the Town for costs of the Project (including land acquisition) paid prior to the issuance of the obligations.

**DULY RESOLVED AND ADOPTED** this 22<sup>nd</sup> day of March, 2010, by the Town Council for the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL OF THE TOWN OF  
HIGHLAND, INDIANA**

**MARK A. HERAK, President**

**ATTEST:**

**Kathleen A. Dowling  
Deputy Clerk-Treasurer**

6. **Resolution No. 2010-12:** A Resolution Re-expressing the Interest of the Town Council in Acquiring Real Property located at 8745 Cottage Grove Avenue, Authorizing, Ratifying, and Accepting Amended or Revised Appraisals of the Property at that site, all Pursuant to IC 36-1-10.5 et seq. *The Town Council adopted Resolution No. 2009-62, December 14, 2009 in which it approved*